

E-filed 9/6/07

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

MOHAMED FAYAD,)	CASE NO. C07-03209 HRL
)	
Plaintiff,)	STIPULATION & ORDER RE:
)	NATURE OF ACTION AND
vs.)	ALLOWING FILING OF AMENDED
)	PLEADING
BOARD OF TRUSTEES OF THE)	
CALIFORNIA STATE UNIVERSITY,)	
)	
Defendant.)	

WHEREAS, the parties have met and conferred concerning the nature of the action in order to avoid a motion on the pleadings and come to agreement as follows:

IT IS HEREBY STIPULATED by Plaintiff, by and through his attorneys, that Plaintiff is not challenging the decision to deny him tenure in his federal court action. Rather, Plaintiff stipulates that he is challenging the separate, discrete decision to appoint him as a part-time lecturer rather than as a full-time, non-tenure track faculty member on or about August 6, 2006.

1 IT IS HEREBY STIPULATED by Defendant, by and through its attorneys, that, based on
2 the above stipulation of Plaintiff, Defendant consents to the filing of the Second Amended
3 Complaint, attached hereto as Exhibit A, and stipulates and agrees to answer said complaint.

4 Dated: September 6, 2007

SIEGEL & YEE

6 By: /s/ Jane Bruner
JANE BRUNER
7 Attorneys for Plaintiff
8 MOHAMED FAYAD

9 Dated: September 6, 2007

GORDON & REES, LLP

11 By: /s/ Michael A. Laurenson
Michael A. Laurenson
12 Attorneys for Defendant
13 BOARD OF TRUSTEES OF THE
14 CALIFORNIA STATE UNIVERSITY

15 Based on the foregoing stipulation of the parties and good cause appearing therefore, IT
16 IS HEREBY ORDERED that Plaintiff's Second Amended Complaint, attached as Exhibit A to
17 the Stipulation of the Parties, is hereby deemed filed as of this date.

18 Further, the parties are ORDERED to file and serve either a Consent to Proceed
19 Before a U.S. Magistrate Judge or a Request for Reassignment to a U.S. District Judge **no**
20 **later than September 18, 2007.**

23 Date: 9/6/07

22 
24 HOWARD R. LLOYD
25 United States Magistrate Judge
26
27
28

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EXHIBIT A

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8 Attorneys for Plaintiff
9 MOHAMED E. FAYAD

10 UNITED STATES DISTRICT COURT FOR THE
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 MOHAMED E. FAYAD,

14 Plaintiff,

15 Vs.

16 BOARD OF TRUSTEES OF THE
17 CALIFORNIA STATE UNIVERSITY,

18 Defendant.
19
20

Case No. C07-03209 (HRL)

VERIFIED SECOND AMENDED
COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

Demand for Jury Trial

21
22 Comes now Plaintiff MOHAMED E. FAYAD and alleges the following:

23
24 PRELIMINARY STATEMENT

25 1. Mohamed Fayad, a former professor now lecturer at the California State
26 University, San Jose (CSU), Department of Computer Engineering, College of Engineering
27 (Department), brings this action for damages and injunctive relief for discrimination based upon
28 his national origin and religion.

1 Fayad brings this action to redress CSU's unlawful discrimination and seeks injunctive as well as
2 compensatory and general damages.

3 4 JURISDICTION

5 2. This action arises under the Civil Rights Act of 1964, Title 42, United States Code
6 §§2000e through 2000e 17, as amended in particular by § 2000e-2(a).

7 3. The matter in controversy exceeds, exclusive of interest and costs, the sum of
8 seventy-five thousand dollars.

9 10 VENUE

11 4. Venue is proper in the Northern District of California because a substantial part of
12 the events or omissions giving rise to the claim occurred in this District.

13 5. Venue is proper in the Northern District of California because CSU employs
14 Fayad in the District.

15 16 PARTIES

17 6. At all times relevant hereto, plaintiff MOHAMED E. FAYAD was a professor in
18 the Department of Computer Engineering, College of Engineering, at San Jose State University
19 and a resident of the County of Santa Clara, State of California. Fayad is of Egyptian national
20 origin and is of the Muslim religion. Plaintiff Fayad is a bona-fide resident of the State of
21 California.

22 7. Defendant, Board of Trustees of California State University (CSU) was and is a
23 state public entity that owns and operates CSU, San Jose.

24 25 STATEMENT OF FACTS

26 8. Fayad has an outstanding record of scholarly work with a sound publication
27 record. He has published over one hundred articles and four books, of which three are translated
28 into Chinese.

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1 9. Fayad received his Bachelor of Science degree from the University of Cairo in
2 1972. He received his Masters in Computer Science from the University of Minnesota in June
3 1993. He received his Ph.D. at the University of Minnesota in June 1994.

4 10. From February 1988 to June 1989, Fayad worked as a Research Assistant in the
5 Computer Science Department at the University of Minnesota. From June 1989 to December
6 1992, Fayad worked as Principal, Specialist Engineering, at McDonnell Douglas Corporation in
7 St. Louis, Missouri. From January 1993 to July 1995 he worked as Vice President of Research
8 and New Business Development and Founder of Object Technologies in St. Louis, Missouri.
9 From August 1995 to August 1999, he was employed as an Associate Professor at the College of
10 Engineering at the University of Nevada, Reno, Nevada. From August 1999 to August 2002, he
11 was the J.D. Edwards Professor, and an Associate Professor in the Computer Science and
12 Engineering Department at the University of Nebraska, Lincoln, Nebraska.

13 11. Fayad joined the faculty at CSU in 2002 as a Professor in the Department of
14 Computer Engineering. Because he served as an Associate Professor at the University of
15 Nebraska for four years before coming to CSU, Fayad received two years of credit toward his
16 tenure review at CSU.

17 12. In 2003 Belle W. Y. Wei, the Dean of College of Engineering at CSU, wrote that
18 Fayad's outstanding scholarly work had enhanced the college's reputation. Fayad is a well-
19 known specialist in research for software development.

20 13. Fayad's promotion to tenure in 2004 was strongly supported by several professors
21 in his department.

22 14. Fayad clearly met CSU standards for a tenured position. Under normal
23 circumstances Fayad's scholarly work and teaching record at CSU would have virtually
24 guaranteed that he would be promoted to tenure.

25 15. On November 5, 2004, the Retention, Tenure and Promotion Committee at CSU
26 recommended that Fayad be denied promotion to tenure and that he be terminated

27 16. As a result of the Committee's decision, the Provost at CSU denied Fayad's
28 promotion to tenure in May 2005.

1 17. CSU demoted Fayad to Lecturer rank in August 2006. CSU then appointed Fayad
2 as a part-time professor for the period of August 2006 to present.

3 18. On information and belief, CSU's decisions to classify him as a part-time
4 Lecturer rather than as a full-time, non-tenure track faculty member was based at least in part on
5 his Egyptian national origin and Muslim religion.

6 19. On February 13, 2007, Fayad filed a charge of discrimination against CSU with
7 the California Department of Fair Employment and Housing (DFEH) and was issued a Case
8 Closure and Right-to-Sue Notice on March 2, 2007.

9 20. On February 20, 2007, Fayad filed a charge of discrimination against CSU with
10 the United States Equal Employment Opportunity Commission (EEOC). On April 4, 2007, the
11 EEOC issued FAYAD a Notice of Right-to-Sue.

12
13 FIRST CLAIM FOR RELIEF – DISCRIMINATION BASED ON NATIONAL ORIGIN

14 (42 U.S. C. § 2000e-2(a))

15 21. Fayad refers to and incorporates by reference paragraphs 1-20 above as though
16 fully set forth herein.

17 22. By virtue of the foregoing, CSU demoted Fayad to lecturer rank and to a part-time
18 position based upon the unlawful consideration of his national origin in violation of Title VII of
19 the Civil Rights Act of 1964, as amended.

20
21 SECOND CLAIM FOR RELIEF – DISCRIMINATION BASED ON RELIGION

22 (42 U.S. C. § 2000e-2(a))

23 23. Fayad refers to and incorporates by reference paragraphs 1-22 above as though
24 fully set forth herein.

25 24. By virtue of the foregoing, CSU demoted Fayad to lecturer rank and to a part-time
26 position based upon the unlawful consideration of his religion in violation of Title VII of the
27 Civil Rights Act of 1964, as amended.

1 DAMAGES

2 25. As a result of the actions of defendant CSU and its agents and employees, Fayad
3 has been injured and has suffered damages as follows:

- 4 a. He has lost compensation to which he would otherwise have been entitled;
5 b. He is likely to lose compensation to which he would otherwise be entitled in
6 the future;
7 c. He has suffered from emotional distress, embarrassment and humiliation;
8 d. His reputation in the scientific community has been damaged; and
9 e. His prospects for future employment and career advancement have been
10 diminished.

11
12
13 WHEREFORE, plaintiff MOHAMED E. FAYAD requests that this Court grant him
14 relief as follows:

- 15 (1) Damages for lost wages, earnings, and benefits according to proof;
16 (2) Interest on damages at the prevailing legal rate;
17 (3) Compensatory damages for humiliation, mental anguish and emotional
18 distress;
19 (4) Injunctive relief to redress the wrongs alleged herein;
20 (5) Attorneys' fees;
21 (6) Costs of suit; and
22 (7) Such other and further relief as the Court may deem proper.
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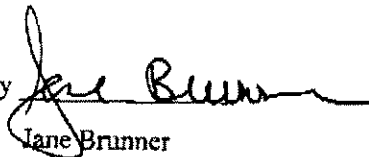
DEMAND FOR JURY TRIAL

Plaintiff FAYAD hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: September 5, 2007

SIEGEL & YEE

By



Jane Brunner
Attorneys for Plaintiff
MOHAMED E. FAYAD